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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/008,306	12/07/2001	Mark B. Hodes	023987.43009	3301

7590 11/07/2003  
Mark B. Hodges  
5350 Poplar Avenue, Suite 750  
Memphis, TN 38119

EXAMINER

ST CYR, DANIEL

ART UNIT PAPER NUMBER

2876

DATE MAILED: 11/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/008,306

Applicant(s)

HODES, MARK B

Examiner

Daniel St.Cyr

Art Unit

2876

-- **The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-143 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-143 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_. 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-143 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stimson et al, US Patent No. 5,511,114.

Stimson et al disclose a telephone prepaid calling card system and method comprising: a plurality of calling cards 10, a host computer 12, a plurality of on-site activation terminals 14 and a call processor 16, each of the calling cards preferably includes a body portion 18 and a read-only memory stripe 20 having stored therein a security number, the host computer has sufficient storage associated therewith to enable a call record to be maintained for every authorized calling card in the system, the activation terminal includes a housing 26 in which a card reader 28 having a card-swipe slot 30 for receiving the calling card so that the memory stripe can be read, a keypad 32 with various alphanumeric and control keys, and a display 34, a modem 36 for connecting the device over a telephone line to the host computer, including includes appropriate control circuitry for controlling the operation of the device; each of the terminals 14 is located at a point-of-sale location where the calling cards are sold to users (see figures 1-3 and col. 3, line 35+).

Stimson et al fail to disclose or fairly suggest all the details of the specific products/services, such as downloading music from the Internet, the identification number is a

bar code, activating cable/ISP/DSL/insurance/website, the package is a disk, or the content of the package is within a box, etc.

However, these specific limitations fall within the engineering design choice or method of used. For instance, Stimson et al teach a magnetic coded card to activate telephone service wherein the instant application uses a bar coded card to activate cable/ISP/DSL/insurance/website.

It would have been obvious for a person of ordinary skill in the art at the time the invention was made to employ a bar coded card in lieu of magnetic card or in combination of storage means for storing the activation number, wherein the card could be used to activate any particular service to meet customers' service requirement. Such modification would provide an alternate means to store the activation number so the service could activate magnetically or optically, which would make the system more user friendly and more versatile. Therefore, it would have been an obvious extension as taught by Stimson et al.

### *Conclusion*

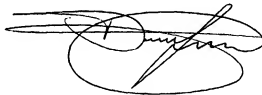
3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Alexander et al, US Patent No. 5,633,839, disclose a music vending machine for recording music selection onto a compact disk. Lorsch, US Patent No. 5,903,633, discloses a method and apparatus for prepaid phone card activation and billing. Fujimoto, US Patent No. 6,018,720, discloses a data delivery method and system. Kim et al, US Patent No. 6,330,490, disclose a data vending machine system and method thereof.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel St.Cyr whose telephone number is 703-305-2656. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G Lee can be reached on 703-305-3503. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Daniel St.Cyr  
Primary Examiner  
Art Unit 2876

A handwritten signature in black ink, appearing to read 'Daniel St.Cyr', is written over a horizontal line. The signature is stylized with a large loop and a long horizontal stroke extending to the right.

DS  
November 3, 2003